

Acquisition of real estate property in Greece by persons or legal entities who are not residents of the EU

Brief description of the procedure for obtaining real estate property

The procedure of a property acquisition usually has the following steps:

1. Finding the right property, with the possible contribution of an estate agent.

Law 4072/2012 in articles 197-204 has introduced various settings and changes to the rules governing the exercise of broker activity in Greece. More specifically, article 198 provides for several conditions to the practice of the profession of an estate agent. **The estate agent's fee is freely traded and subject to an agreement** (article 200, par.2b). Usually a **fee of a percentage of 2%** of actual price paid for the property is agreed.

2. Legal due diligence (title search) of the property- Hiring a lawyer

After finding the property of his choice and before signing any contract, the buyer is advised to assign a **lawyer** the complete legal due diligence of the property. This involves checking the property deeds for the past 20 years (previous owners, if it is mortgaged, if there are pending legal proceedings, claims, expropriations or any other legal obstacles). This process is done at the Cadaster or the Land Deed Registry.

3. Technical survey of the property- Hire an engineer

When the property to be transferred is land or lies off the town plan, it is necessary to recruit an engineer, who will check whether the property meets the legal conditions for construction or check the compliance with the new arrangements for settlement of illegal constructions. The Architect / Civil Engineer will perform the Technical inspection to confirm that the property is located within the town/city plan, it is constructed according to city planning requirements, its construction permit, quality of materials, etc. For land and plots (with or without building), a check of the topographical diagram which includes the property area, building coefficient (sq.m.), approvals of the Archaeology and Forest Service, any specific land uses such as seashore or habitat.

4. Apply for a Tax Registration Number (AFM)

The AFM is mandatory for anyone who purchase real estate in Greece. The AFM is issued by the Tax Office by submitting your passport and your birth certificate, either by yourself or by a lawyer or accountant with power of attorney.

5. Property Transfer Tax (FMA)

Before signing the contract, the buyer must pay the Property Transfer Tax (FMA) equivalent to 3% of the property value as written within the property acquisition contract, to the Tax Authority. The FMA is calculated based on the Tax Assessed Value of the property. For newly built properties (permit issued after 31.12.2005), the FMA is replaced with VAT (24%) on the Tax Assessed Value of the property.

6. Buy and the Transfer Contract

After the due diligence checks have been completed (usually 2-8 weeks) the Property Transfer Contract is signed, either by you in person or your lawyer with power-of-attorney. The law requires that the sale contract is drafted and concluded before a notary public. The choice of the notary is usually a privilege of the buyer. However, the notary's role is to safeguard the transaction and must be neutral.

Since 01.01.2014 the presence of a lawyer in drafting and signing contract transfer is optional for all parties. However the presence and effective participation of a lawyer in contracts property law is always helpful and can prevent major property damage. The **seller** has to adduce a series of documents that are listed below. It is advisable that this list is checked by the notary because it may be that some of the paperwork is no longer required or that additional documents are needed.

- Identity card or passport.
- Certified copy of the planning permission (if the property is a building).
- Tax clearance certificate, as evidence that the seller has no debts against the Greek State.
- Insurance clearance certificate, as evidence that the seller has no debts against social security institutions, in case that he is an employer or if it is a construction company.
- A confirmation that the seller has submitted the relevant statement to the Tax Office, if the property on sale has been acquired by inheritance or donation.
- A confirmation of the Municipality where the property is located, as evidence that there is no Real Estate Duty (called TAP) owed for this property.
- A declaration that the property on sale has not generated income in the last 5 years. In the event that the property has generated income, the seller has to adduce a certificate by the competent tax office confirming that the income was declared.
- A declaration that he has declared the property being sold among his assets (form E9).

The **buyer** has to adduce at least the following documents:

- Identity card or passport.
- Receipt of payment to the competent tax office of the Real Estate Transfer Tax (F.M.A.), otherwise a confirmation that the buyer is exempted from its payment under the provisions for obtaining its primary residence.

7. Land Deed Registry, Cadaster and Property Transfer

The Civil Code mentions the acts regarding the real estate property that must be recorded in official public records. Under Article 1192 of Civil Code, all contracts that are concluded *inter vivos* (including donations the cause of which is the death of the donator) that create, transfer or eliminate a right on real estate property, are registered at the competent Land Registry. If the contract is not registered, the transfer of the right of ownership (the acquisition) is not completed.

After the registration of the contract at the Land Deed Registry, your lawyer should verify that the property has been transferred in your name and get a certificate from the Land Deed Registry. The Contract and the Land Deed Registry certificate are officially recorded in the Cadaster by the lawyer. The recordation of the transfer title takes places either at the Land Registry Office or at the Hellenic National Land Registry (cadastre) of the region where the property is located, after the submission of the required documents, along with an application and the payment of the recordation fees.

OTHER ISSUES

PURCHASING EXPENSES

- **Lawyer** - The lawyer's fee usually ranges between 0.5 - 2%, calculated on the property value.
- **Notary** - Notary costs usually amount to an average rate of 0.65 - 1.2%.
- **Land Deed Registry** - The expenses of Land Deed Registry amounts to 0.475% of the Contract value.
- **Cadastral fee** - According to the Law 3481/2016, the cadastral fee is set at **thirty five (35) euro per right**, with the exception of rights in parking spaces or warehouses that are independent properties, for which the fee shall be twenty (20) euro. The remaining fee is fixed as a percentage of 0,1% of the property value (over the value of 20.000 euro), which is calculated based on the value zone of the property.

- **Estate agent's fee** - It is not specified by law and is freely traded, according to recent Law 4072/2012, article 200 par. 2b, but is subject to a written agreement. Usually a fee of a percentage of 2% of actual price paid for the property is agreed, but this may vary, depending on property value and other factors.

TAXATION

Evaluation of real property

The value of land in Greece is assessed according to a so called “system of objective value” (or tax value). This system provides for a minimum value of real property according to objective criteria such as position, size, public facilities in the area, age of a building etc. This system has been imposed so that the tax authorities have a reference minimum value in imposing taxes in relation to land. In cases of transfer of land, the transfer tax is calculated on either that “objective value” or the value agreed in the contract, whichever is the highest. The objective values are usually significantly lower than the market values. Similarly to taxes, most other fees and charges imposed in a land transfer contract are dependent on the objective value of the land or the contractual value of the land (whichever is the highest). Not all areas in Greece have been valued, so in some areas (mainly rural) the tax authorities make estimation of the value according to similar transactions or other available data.

As for the tax year 2014, Council of State with a recent Decision no. 4446/2015 decided the retrospective adjustment of the objective value of property.

Main annual taxes and charges related to property ownership

All properties in Greece, belonging to individuals or legal entities on the 1st of January of every year, are burdened with the Single Real Estate Property Tax (“**ENFIA**”), following the provisions of Law 4223/2013.

The taxable value of buildings (main and auxiliary spaces) is determined by several factors, such as the surface, the price zone, the floor, and the age of building, the facade, the percentage of ownership and other special circumstances. **ENFIA base tax** depends on various coefficients affecting the value of the property, such as the exact location **where the property is situated, its age, floor, surface area, use**. The base tax is calculated on the basis of the following 12 step scale.

ENFIA BASE TAX SCALES 2018			
Zone	Price		Base Tax
(Euro/Sq.m)		Tax Zone	(Euro/Sq.m)
0-550		1	2.00
551-750		2	2.80
751-1,050		3	2.90
1,051-1,500		4	3.70
1,501-2,000		5	4.50
2,001-2,500		6	6.00
2,551-3,000		7	7.60
3,001-3,500		8	9.20
3,501-4,000		9	9.50
4,001-4,500		10	11.10
4,501-5,000		11	11.30
5,001+		12	13.00

ENFIA is comprised by the above main (principal tax) and a **supplementary tax**, which is imposed by the following scale when the value of property exceeds the amount of €250.0000:

Brackets - Value of property (€)	Rate (%)
0,1-250.000	0,0%
250.000,01-300.000	0,15%
300.000,01-400.000	0,30%
400.000,01-500.000	0,50%
500.000,01-600.000	0,60%
600.000,01-700.000	0,80%
700.000,01-800.000	0,90%
800.000,01-900.000	1,00%

900.000,01-1.000.000	1,05%
1.000.000,01-2.000.000	1,10%
Over 2.000.000	1,15%

Income from property rental is taxed as a capital income by the following scale:

Income from property (€) – from 01.01.2017	Tax rate (%)
0-12.000	15%
12.001-35.000	35%
>35.001	45%

Gross income from rental property is automatically charged with a percentage of 3.6% stamp duty (excluding the housing rentals).

Additionally, each local authority may impose various **municipal fees and taxes** on real estate properties, which can be different from municipality to municipality. The most common fees and taxes that imposed on properties are the following:

- Municipal fees of lighting and cleaning costs
- Municipal tax on electrified areas (varies between 0,165-0,330 Euro/m² each year)
- TAP a municipal property fee (varies between 0,25 per mil-0,35 per mil, according to the surface, the age and the price zone)

Indicatively, for the Municipality of Athens the municipal fees of lighting and cleaning can be calculated with 1,55 euro/m² yearly, while the tax on electrified areas ranges between 0,165-0,330 euro/m² yearly.

Finally, the annual amount of TAP can be calculated as follows:

$$\text{Property area} * \text{value zone} * \text{age of building factor} * (\text{TAP}) \text{ factor.}$$

(TAP) factor for the Municipality of Athens is 0,035%.

RESTRICTIONS-LIMITATIONS TO REAL ESTATE PROPERTY

Constitution: article 24 of the Greek Constitution sets some limitations and restrictions so as to protect the natural and cultural environment in Greece. The protection of forests, the

urbanization and expansion of residential areas, the master planning of the country and the protection of heritage are duties of the Greek State.

More specifically, par. 1 of the above article prohibits any alteration of use of forests and rural spaces, except when those changes are for the benefit of national economy or imposed by public interest. Article 24 par. 1, requests that the State takes special preventive and repressive measures in order to protect the natural and cultural environment. In this framework, according to the law 4014/2011 and 4281/2014 there is a special status of environmental licensing for projects that might affect the environment. In addition, since 2011, the Energy Performance Certificate is compulsory for all buildings purposed for residence, office or commercial use.

According to article 24 par. 6 the protection of the monuments and the cultural-traditional areas is a duty of the State. Therefore, a survey and a written consent of the archeological service are required so as to permit construction.

Moreover, according to laws 1892/1990 and 4278/2014, only Greek individuals and legal entities or those that have citizenship or business placement within the European Union and the European Trade Association are permitted to acquire real estate rights in Greek territory border areas. Individuals and legal entities of third countries can acquire real right but after they are authorized by the Greek State.

The Greek State is also responsible for and controls the master planning of the country and the urbanization and expansion of the cities and their arrangement, according to the Greek Constitution, article 24 par 2,3. In this framework, Greek law forbids the transfer of ownership of land so as to create non integral plots (law 651/1977, 625/1968 and law decree 690/1948). IN addition, as far as the Greek coast is concerned, all beaches and coast are considered properties of common use. Therefore, they belong to the Greek State which is also responsible for their protection and management (law 2971/2001).

Other restrictions: The Greek legislation imposes restrictions on the acquisition of property in the Greek territory, only to foreign persons who are **not** citizens or residents of Member States of the European Union and the European Free Trade Association and in so far as the real estate property to be bought is located in **border areas**, according to Articles 24 et seq of L.1892/1990.

The same restrictions are set regarding acquisition and transfer of shares or change of partners in companies of any legal form that own any property in the above areas.

It is noted that the border areas are: the former prefectures of Dodecanese, Evros, Thesprotia, Kastoria, Kilkis, Lesvos, Xanthi, Preveza, Rodopi, Samos, Chios, Florina and the islands of Thira and Skyros, and the former provinces of the former counties of Nevrokopi of the former prefecture of Drama, Pogoni and Konitsa of the former prefecture of Ioannina, Almopia of the former prefecture of Edessa, and Pella and Sintiki of former prefecture of Serres.

Any person or legal entity that falls within any of the above limitations may apply for the suspension of those limitations, stating the purpose for which the property will be acquired. This application is submitted to a committee, which provides its services for a term of five (5) years in every decentralized administration under the decision of the relevant Secretary-General. The committee is composed by the Secretary - General as president and his deputy, and representatives from the Ministries of Defense, Economy and Marine and Citizen Protection, who are appointed with their deputies by the respective authorities.

The committee is authorized to suspend the restrictions, provided that it decides at a majority of the total number of members, and that the representative of the Ministry of Defense casts an affirmative vote.

Another restriction is set in Article 28 of the Law 1892/1990, regarding the acquisition by a contract inter vivos of any property right on private islands or islets in Greece-wherever they are located-, and on any building on them. In order to complete the transaction, it is necessary to obtain the permission of the Minister of National Defense, which is given under the prior consent of the competent department of the Ministry of Defense, -General Staff of Army, Air Force or Navy.

Disclaimer: Whilst every care has been taken to assure that the information contained in this document is accurate, Enterprise Greece does not in any way assume liability for any imprecise or erroneous statement contained hereinafter. This e-mail is intended for informational purposes only; it is not intended to impart legal advice; readers are advised to seek independent legal advice prior to acting on any statements contained herein. The information contained in this e-mail is in no way a substitute for the Law, which is binding only in the original Greek legislative text.